

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

GERALD MAIRA,

Plaintiff,

v.

20-CV-447-LJV-JJM
DECISION & ORDER

STI-CO INDUSTRIES INC.,

Defendant.

On November 20, 2019, the plaintiff, Gerald Maira, commenced this action in New York State Supreme Court, Erie County, under the Americans with Disabilities Act of 1990 (“ADA”) and the New York State Human Rights Law (“NYSHRL”). See Docket Item 1. The defendant removed the action to this Court on April 15, 2020. *Id.*

On May 26, 2020, this Court referred this case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 8. On August 21, 2020, the defendant moved to dismiss,¹ Docket Item 18; on November 30, 2020, the plaintiff responded, Docket Item 25; and on December 7, 2020, the defendant replied, Docket Item 26. On February 24, 2021, Judge McCarthy issued a Report and Recommendation (“R&R”) finding that the defendant’s motion should be “granted as to the plaintiff’s ADA claims[] and that the [C]ourt [should] decline

¹ The defendant first moved to dismiss on May 22, 2020. Docket Item 7. In response, the plaintiff filed a cross-motion to amend his complaint. Docket Item 13. The parties subsequently stipulated that the defendant would withdraw its motion to dismiss and the plaintiff would file an amended complaint to which the defendant would respond. Docket Item 16. The current motion to dismiss, Docket Item 18, addresses the amended complaint, Docket Item 17.

to exercise supplemental jurisdiction of the plaintiff's NYSHRL claims." Docket Item 28 at 1. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

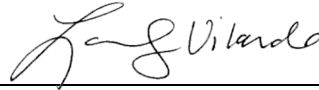
Although not required to do so in light of the above, this Court nevertheless has reviewed Judge McCarthy's very detailed, careful, and thorough R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge McCarthy's recommendation (1) to grant the defendant's motion to dismiss the ADA claims and (2) to decline to exercise supplemental jurisdiction over the NYSHRL claims.

For the reasons stated above and in the R&R, the defendant's motion to dismiss, Docket Item 18, is GRANTED as to the ADA claims; those claims are DISMISSED without leave to amend; and the matter is REMANDED to New York State Supreme

Court, Erie County. The Clerk of the Court shall close the file.

SO ORDERED.

Dated: March 31, 2021
Buffalo, New York

A handwritten signature in cursive script, appearing to read "Lawrence J. Vilaro", written in black ink.

LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE